Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 8710 of 2023

Petitioner :- Suryabhan Singh Alias Sooraj Singh
Respondent :- State Of U.P. Thru. Prin. Secy. Home Sachivalaya Lko And Others
Counsel for Petitioner :- Manish Srivastava
Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra,J.
Hon'ble Narendra Kumar Johari,J.

Heard learned counsel for the petitioner, learned AGA who appears on behalf of State-respondents and perused the record.

This petition has been filed praying the following main reliefs:-

i) Issue a writ, order or direction in the nature of Mandamus commanding the opposite parties no. 2 and 3 to conduct fair investigation in the First Information Report dated 18.7.2023 registered as case crime no. 296 of 2023 under Section 147, 307, 323, 324 I.P.C. Police Station- Kheeron, District-Raebareli.

(ii) Issue a writ, order or direction in the nature of Mandamus commanding the opposite party to take effective steps for recovery to arrest the accused persons in the impugned F.I.R.

It has been submitted by the learned counsel for the petitioner that although the F.I.R. was lodged by the petitioner on 18.7.2023 but the Investigating Officer is conducting a fair investigation and he is in collusion with the opposite parties.

We have perused the averments made in the writ petition and are not convinced that any direction, as has been prayed for by the petitioner in this writ petition, can be granted in these proceedings. The Supreme Court in the case of ***Sudhir Bhaskarrao Tambe vs. Hemant Yashwant Dhage and others, reported in (2016) 6 SCC 277*** relying upon an earlier judgment of the Supreme Court in the case of ***Sakiri Vasu vs. State of U.P. and others, reported in (2008) 2 SCC 469*** has held that this Court normally should not entertain such petitions for the reason that complainant in such situations is at liberty to avail the alternative remedy by approaching the Magistrate concerned under Section 156(3) Cr.P.C.

Accordingly, we are not inclined to entertain this writ petition, which is hereby **disposed of** with the observation that it will be open to the petitioner to approach the Magistrate concerned by moving an application under Section 156(3) Cr.P.C. If any such application is moved by the petitioner/complainant, the same shall be dealt in accordance with law by the Magistrate concerned.

Order Date :- 9.11.2023

Anuj Singh

Digitally signed by :-
ANUJ PRATAP SINGH
High Court of Judicature at Allahabad,
Lucknow Bench